IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

Suit No. 2092 of 1987

Kishen S.Mangli ..Plaintiff

vs.

1a. Mrs.Nirmala Assandas Manglani and others ..Defendants

Mr.Rajiv Kumar i/b M/s Advani and Co. for plaintiff.
Mr.J.P.Sen i/b Mr.Nirav Jani for defendant nos.1a to d.

CORAM: S.C.DHARMADHIKARI J.
27th August, 2007

P.C.

1. At the stage when the suit was placed for cross examination of the plaintiff, Mr.Kumar, learned Counsel appearing for the plaintiff and Mr.Sen, learned Counsel appearing for respondent nos.1a to 1d states that the entire dispute between the parties is settled in as much as the plaintiff and defendants have agreed for disposed of the suit after the consent terms have been drawn and all the implications thereof have been duly explained to the parties.

2. Mr.Sen states that defendant no.1(e) is presently in Australia. Defendant no.1(e) is one of the heirs and legal representatives of the deceased defendant. However,

the plaintiff, and defendant nos.1(a) to 1(d) have agreed that, presently the consent terms drawn by them may not be signed by her, but in case she sets up a claim in respect of the suit premises, defendant nos.1(a) to 1(d) would keep the plaintiff indemnified with regard to the same. In any event, physical possession of the suit property is with defendant nos.1(a) to 1(d) which has been duly handed over and delivered to the plaintiff today.

3. It is in this back drop that Mr.Kumar and Mr.Sen tender the consent terms recording admissions of defendant nos.1(a) to 1(d). They submit to a Decree in terms of the consent terms which are duly signed by them as well as their Advocates. The said consent terms are taken on record and marked "X" for identification.

4. The consent terms record that possession of the flat has been duly handed over which fact is confirmed by the plaintiff. However, there are some articles lying in the flat which are more particularly described in clause 4 of the consent terms and defendant nos.1(a) to 1(d) undertake to remove the same on or before 30th September, 2007.

5. The parties agree that till the time the said articles are removed the keys to the flat would be kept in safe

custody of the Advocate of the plaintiff and the arrangement is that by prior notice the articles would be removed.

6. The entire agreement is in the backdrop of the plaintiff paying to defendant nos.1(a) to 1(e) a sum of Rs.50,00,000/- under the deed of exchange in full and final settlement of all the claims arising therefrom or otherwise. Since the sum has to be paid in the manner specified in clause 6 it is agreed between the parties further that defendant nos.1(a) to 1(d) give up all their right, title and interest, if any, in the flat and shall have no claim against the plaintiff either under the deed of exchange or otherwise.The plaintiff has no objection if the share certificate is corrected accordingly.

7. I have perused the terms. I am satisfied that the terms record the agreement of the parties. They are not vitiated in any manner and can be accepted. The consent terms are duly signed. The plaintiff is present in Court. Defendant no.1(b) is present in Court and he confirms having read the consent terms and duly signed the same. Mr.Sen states that the consent terms with their implications have been explained to other defendants as well. Order in terms of the consent terms at X.

Undertakings contained in the consent terms are accepted.

8. Suit disposed of accordingly. Refund of Court fees as per rules. No order as to costs.

9. Prothonotary and Senior Master to return the original deed of exchange which is lying in this Court after completion of the necessary formalities.

(S.C.DHARMADHIKARI J.)